

comprising Fort Lewis Military Reservation. The act provided that the donation shall be evidenced by a deed of conveyance and that a metes and bounds description and a map of the area "shall be filed" in the auditor's office of the county. Prior to the execution of the deed, the United States entered into possession of the lands and improved and occupied them pursuant to the special war powers granted by Congress to the Secretary of War by the act approved July 2, 1917 (40 Stat. 241, U. S. C., Title 50, Sec. 171). A defendant was charged with the crime of murder committed within the area which was occupied by the United States prior to the execution of the deed. The defendant petitioned the United States District Court¹² for a writ of habeas corpus, alleging that the Federal Court was without jurisdiction. The petition was denied, but the District Court's action was reversed by the Ninth Circuit Court of Appeals,¹³ and the defendant was ordered discharged from custody, the Court holding that unless the United States had acquired title to the land with the consent of the State at the time the alleged murder was committed, the crime was not an offense against the United States.

49. Setting aside land from public domain not an "acquisition" by the United States.—In a Federal district court case it was held that the setting aside of lands from the public domain for new uses of the Government and withdrawing them from public entry is not an acquisition within the meaning of a State statute consenting to the acquisition of land by the United States. In that case, the plaintiff sought to restrain a county officer from enforcing collection of a State tax within the Boulder Dam (Nevada) Reservation on the ground that the United States had exclusive jurisdiction over the area under a Nevada statute which gave the consent of the State "to the acquisition by the United States by purchase, condemnation or otherwise of any land in this state which has been or may hereafter be acquired for sites for custom houses, court houses, post offices, arsenals or other public buildings whatever, or for any other purpose of the Government." The land within the reservation had been set aside from the public domain. Holding that the mere act of setting aside land for a new Government use did not amount to an "acquisition" of the land by the United States for a purpose named in the State's act of consent, the Court said, "upon the question of acquisition, it is contended by plaintiff that the setting aside of this land out of public domain and withdrawing the same from public entry 'was an acquisition thereof within the meaning of that statute as fully as if the United States had purchased the land from others.' The fallacy of this contention lies in the fact that after the land had been withdrawn from entry and set apart for the purpose

¹² *In re Pothier*, 285 Fed. 632.

¹³ *Pothier v. Rodman*, 291 Fed. 313.